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TERRITORY OF NEW MEXICO.



# COMPILATION

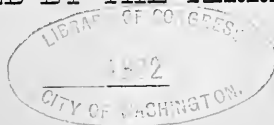
OF THE

# SCHOOL LAWS OF NEW MEXICO

CONTAINING

Laws and Parts of Laws Relating  
to Public Schools.

PUBLISHED BY THE TERRITORY,



SANTA FE, N. M.:  
NEW MEXICAN PRINTING COMPANY.  
1891.

L. B. 3529

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# SESSION LAWS OF 1891.

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## CHAPTER. XXV.

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AN ACT ESTABLISHING COMMON SCHOOLS IN THE TERRITORY OF  
NEW MEXICO, AND CREATING THE OFFICE OF SUPERINTEN-  
DENT OF PUBLIC INSTRUCTION.

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*Be it Enacted by the Legislative Assembly of the Territory of  
New Mexico.*

SECTION 1. That the governor, superintendent of public instruction, and the president of St. Michael's College of Santa Fe, the president of the university at Albuquerque, and the president of the agricultural college at Las Cruces, shall be and constitute the Territorial Board of Education and shall meet semi-annually at the office of said superintendent on the first Monday of June and December of each year; *Provided*, That the governor may assemble the members of said board at any time at his discretion.

SEC. 2. That the governor shall be president of said board and shall sign the journal of each day's proceedings.

SEC. 3. The office of superintendent of public instruction is hereby created, and the governor shall appoint, by and with the advice and consent of the council, a duly qualified person to fill said office, who shall hold his office for two years and until his successor is appointed and qualified. The superintendent of public instruction shall receive for his salary the sum of two thousand dollars per annum, payable quarterly, on the warrant of the auditor on the territorial treasurer, and also traveling expenses, not to exceed five hundred dollars per annum; the said

superintendent of public instruction shall be secretary of said board and shall keep a faithful and correct record of its proceedings and shall keep the said record open at all times for inspection; a copy of said record, certified by the secretary of the board, shall be in all cases received as evidence equal with the original.

SEC. 4. That the Board of Education shall at the semi-annual meetings, apportion the territorial school fund to the various counties in proportion to the number of school children residing therein, over five and under twenty-one years of age, and shall certify such apportionment to the territorial treasurer; they shall also certify to the treasurer and school superintendents of each county the amount apportioned to their county, and the territorial auditor shall draw his order on the territorial treasurer, in favor of the county treasurer of each county, for the amount apportioned to each county.

SEC. 5. That the superintendent of public instruction shall before entering upon the duties of his office take and subscribe an oath, or affirmation, to support the constitution of the United States and the laws of the Territory of New Mexico and faithfully to discharge the duties of the office; which oath or affirmation shall be filed in the office of the secretary of the territory.

SEC. 6. That it shall be his duty to visit each county at least once a year and as much oftener as consistent with the discharge of his other duties, for the purpose of holding a teachers' institute and of awakening an interest in the cause of education throughout the territory; such institute shall be held for at least two days in each county each year. He shall file and carefully preserve in his office the official reports made to him by the county superintendents of the several counties, trustees or directors of academies or colleges.

SEC. 7. That it shall be his duty to recommend the most approved text-books in English, or in English and Spanish, for the common schools of the territory, after the same have been adopted by the Territorial Board of Education; and such text-

books, when adopted, shall not be changed for a period of four years.

SEC. 8. That he shall prescribe and cause to be prepared in English and Spanish all forms and blanks necessary in the details of the common school system, so as to secure its uniform operation throughout the territory and to cause the same to be forwarded to the several county superintendents, to be by them distributed to the several persons entitled to receive the same. He shall cause to be published as needed as many copies of the school laws in force with such forms, regulations and instructions as he may judge expedient, thereto annexed and shall cause the same to be forwarded to the county superintendents for distribution.

SEC. 9. That he shall prepare in each year a report for publication, bearing date of the last day of December, containing a statement of the number of common schools in the territory, the number, age and sex of pupils attending the same, and the branches taught, and value of school property; also of the number of private and select schools in the territory, so far as the same can be ascertained, and the number, age and sex of pupils attending the same, and branches taught, the number of academies and colleges in the territory and the number, age and sex of students attending them, and such other matters of interest as he may deem expedient, drawn from the reports of the county superintendents, trustees and school boards, of the several counties in the territory.

SEC. 10. That he shall have an office at the seat of government, where shall be kept all books and papers appertaining to the business of his office, and copies of all papers filed in his office. His official acts may be certified by him and when so certified shall be entitled as evidence equally and in like manner as the original papers, and he shall deliver to his successor, within ten days after the expiration of his term all books, papers, documents and other property belonging to his office.

SEC. 11. That a superintendent of schools for each county

shall be elected at each general election and hold his office for two years, or until his successor is elected and qualified.

He shall receive from the county treasurer the sum of five dollars for every day actually and necessarily employed in his duties, not to exceed five days in each district each year; to be audited and allowed by the board of county commissioners upon statement of account verified by affidavit.

SEC. 12. That the county superintendent shall have charge of the common school interests of the county. He shall, before entering upon the discharge of the duties of his office, take and subscribe an oath or affirmation to support the constitution of the United States, and the laws of the territory of New Mexico, and faithfully to discharge the duties of his office, which oath or affirmation shall be filed in the office of the county clerk. He shall also give bond in the sum of two thousand dollars, to be approved by and filed with the board of county commissioners of his county.

SEC. 13. That he shall also on the first Mondays in July and January of each year, or as soon thereafter as he has received the certificate of the Territorial Board of Education, signifying the amount appropriated to his county, for the use of common schools for the current year, apportion such amount, together with all the county school fund, for the same purpose, to the several districts within the county, in proportion to the number of children residing in each over five and under twenty-one years of age, as the same shall appear from the last annual reports of the clerks of the respective districts, and he shall immediately certify such apportionment to the directors of the respective districts, and to the county treasurer, who shall credit the several school districts on his books with the respective sums apportioned to them.

*Provided*, that no district shall be entitled to receive any portion of the common school fund in which a common school has not been taught at least three months during the twelve months preceeding. It shall also be his duty to visit each of the schools

within his jurisdiction at least once a year, and he shall also see that the annual report of the clerks of the several school districts of his county are made correctly and in due time. In conjunction with two competent persons appointed by the judge of the district court wherein the county is situated, he shall make examination of all applicants to teach and when duly satisfied of their competency shall grant them a certificate.

*Provided*, that said superintendent with one of said persons so appointed shall constitute a quorum of said examining board. Said certificates, shall be of three grades, and such examination shall be necessary, for the three grades as the territorial superintendent shall designate, and in school districts where the only language spoken is Spanish the teacher shall have a knowledge of both English and Spanish. Each member of said examining board shall receive five dollars per diem and no more for his services, to be paid from the county school funds.

SEC. 14. That whenever a school district shall be formed in any county the county superintendent shall within fifteen days thereafter prepare and post a notice of the formation of such district, describing its boundaries and stating the number thereof, and appointing a time and place for the first district meeting, and shall also furnish the county clerk with the description and boundaries of each school district as soon as practicable after the same is formed. He shall on or before the fifteenth day of October of each year make out and transmit in writing to the territorial superintendent, bearing date of October 1st, a report containing the statement of the number of school districts in the county, and the number, age and sex of children residing in each, over five and under twenty-one years of age, the number of schools in the county, the length of time each school has been taught, the number, age and sex of pupils attending the same, the number and sex of teachers employed, branches taught, and text books used; the number of private or select schools or academies in the county, so far as the same can be ascertained the number, age and sex of pupils and teachers employed, and

the branches taught in each, the amount of public money received in each district, the amount of money raised by taxes and paid for teachers' salaries, in addition to the amount of public money raised by tax or otherwise for the purpose of purchasing sites for school buildings, repairing and furnishing school houses, and such other information as the territorial superintendent may desire.

SEC. 15. That every county superintendent who shall willfully neglect or refuse to make and deliver to the territorial superintendent his annual report as required by this act within the time limited therefor shall be liable on his bond for the full amount of money lost to the county by such neglect or refusal, with the interest thereon at twelve per centum per annum, to be recovered by the county treasurer in the name of the county, from the bondsmen of said superintendent.

SEC. 16. That each of the school districts of the different counties as now constituted is hereby declared to be a school district, until changed under the provisions of this act, and there shall be established in each district one or more schools, in which shall be taught orthography, reading, writing, arithmetic, geography, the English language, grammar and the history of the United States.

SEC. 17. That each school district shall be a body corporate by the name and style of school district number ..... of the county of ..... and by such name may contract and be contracted with, sue and be sued, in any of the courts of this territory having competent jurisdiction; and every such district shall hold in the corporate name of the district, the title of lands and other property which may be required by said district for school purposes.

SEC. 18. That a new school district may be formed, or the boundaries of any district changed, by the county superintendent, on petition of a majority of the electors residing within the proposed district: *Provided*, however, that after the boundaries of any district have been legally established and bonds

voted, then and in that case there shall be an equitable division of the assets and liabilities of the original district.

SEC. 19. That on the second Monday of May, 1891, the present county school superintendents of the respective counties shall cause to be posted notices in at least three public places in each school district calling an election to be held for three school directors of said district, on the first Monday in June following; said election to be held by three property holders in said district, to be named in said notice, and after said election is held the three directors elected shall hold office for one year and until their successors are elected and qualified, and the judges of election shall certify the result to the county superintendent; on the second Monday of May of each succeeding year the directors serving at the time shall post notices of an election to be held by them on the first Monday in June by the qualified voters, for three school directors whose term shall be one year. Only legal voters, residing and paying taxes in said district, shall be qualified to vote at said election; the votes shall be by written or printed ballots and the election shall be held between the hours of eight a. m. and five p. m. on the first Monday of June at the public school house or some other convenient place, to be specified in said notice; the result of said election shall be certified by said directors to the county superintendent and the term of office of said directors shall begin on the first Monday of July following their election. The directors so elected shall take and file with the county superintendent, before the first Monday of July, an oath that they will faithfully perform the duties of their office; said oath shall be administered by the judges holding the election first provided for and at subsequent elections by the directors serving, and in said oath shall be set forth the number of said school districts.

SEC. 20. That five days after their qualification the school directors shall meet and elect a chairman and a clerk, and two directors shall constitute a quorum, which shall be competent to discharge all the duties of a full board. Should a vacancy occur

from any cause, notice shall be given to the county superintendent by the directors or a director, and thereupon said county superintendent shall appoint a director to fill such vacancy until the next election. They shall have the care and keeping of the school house and other property belonging to the school district and are hereby authorized to open the school houses for the use of religious, political, literary, scientific, mechanical, agricultural and industrial societies belonging in their district for the purpose of holding business or public meetings of said societies.

SEC. 21. That the school directors of the several districts shall have power and are hereby required to provide as soon as practicable school house sites, proper school houses, and sufficient fuel for the schools established by this act or any prior act; they shall pay teachers' wages and interest on school house bonds as provided in section 22, and for that purpose they are empowered to levy a tax when necessary, not exceeding five mills on the dollar in any one year, on the taxable property of their respective districts.

SEC. 22. It shall be their duty to make an estimate for such tax levy on or before the third Monday in July of each year, of the amount of money necessary for teachers' wages for at least six months in each year and to purchase or lease suitable sites for school houses and to keep in repair and provide for said school houses with necessary fuel and furniture, books and stationery, for the board and district meetings and defray all other contingent expenses of the district, including interest on school house bonds, which tax levy shall be voted upon by the qualified voters of said district, and if concurred in by a majority of such said voters of said district it shall be certified to by the board of county commissioners of the proper county, and if said commissioners decide such election legal, this tax shall then be collected by the sheriff or tax collector, as other school taxes are now collected and accounted for.

*Provided,* That no board shall issue warrants or certificates



of indebtedness of the school district in excess of the amount of the levy for one year, but all school orders shall draw six per cent interest per annum after having been presented to the county treasurer and not paid for want of funds, which fact shall be endorsed upon the order by the treasurer; and they shall further have power to levy a special tax not exceeding five mills on the dollar of taxable property, for the purpose of creating a sinking fund to pay off school house bonds as provided for in section 30. The directors of the several school districts shall also employ and pay school teachers under the restrictions imposed by this act, and shall have the general control and management of the schools in their respective districts subject to such supervision as shall herein be conferred upon the county superintendent, and the directors in the several school districts in the territory shall, on or before the first day of September of each year, make an enumeration of all unmarried persons between five and twenty-one years of age, giving the names, ages, and sex of such persons in full, and reporting the same in writing, which shall be signed by all the directors to the county superintendent, within fifteen days thereafter. All resident unmarried persons between said ages shall be entitled to attend the schools of their districts. The clerks of the several school districts shall on or before the first day of May of each year make a report to the county superintendent in writing, showing the amount of money collected and expended for school house sites, school houses, and fuel, interest on school house bonds, contingent expenses, and for salaries paid teachers within the twelve months preceding.

Any school director who shall willfully refuse or fail to make any report or perform all the duties required by this section shall be deemed guilty of a misdemeanor and on conviction before the district court of the proper county shall be punished by a fine of not more than one hundred dollars or by imprisonment in the county jail for a period not exceeding sixty days, in the discretion of the court.

SEC. 23. That every person employed to teach a school established by this act or any act now in force shall keep a proper record and at the end of each term make a report to the county superintendent, showing the whole number of pupils that have attended school during such term, giving the names, ages and sex, the average daily attendance, the branches taught, and such other facts as may be deemed important, as showing the character of the school and the proficiency of the pupils, and for failure to make such report he may be fined in the sum of not more than fifty dollars, upon conviction before any justice of the peace. No person shall be paid any money for teaching any school established under this act until an order is presented, signed by two of the school directors of the proper district, and endorsed by the county superintendent.

SEC. 24. That the territorial auditor shall annually on or before the first day of May of each year levy a tax not exceeding three mills on the dollar, upon the taxable property of the territory, and certify the same to the tax collectors of the several counties, who shall collect the same as other taxes are collected and pay the same to the territorial treasurer. The money thus received shall not be expended for any other purpose or purposes than for paying the expenses on collecting, which shall not exceed two and one-half per centum on the sum collected, for paying expenses of printing necessary forms and blank reports and school laws, the salary of the county superintendent of public instruction and the expenses of his office, and paying school teachers. Said school money when collected shall be apportioned to the several counties as provided in this act.

SEC. 25. That the county treasurers shall severally give bond with two or more sureties as treasurers of the school fund in their respective counties, in a sum which shall be fixed by the superintendent of public instruction at double the probable amount of the school funds which shall come into their hands; said bonds shall in no case be for a less amount than ten thousand dollars, and shall be approved by the county superintendent

of the proper county and filed with the superintendent of public instruction.

SEC. 26. That the territorial treasurer shall give bond as treasurer of the school fund of the territory in the sum of one hundred thousand dollars, with such sureties as shall be approved by the governor, which bond shall be filed with the superintendent of public instruction and legal proceedings for the recovery thereon shall be in the name of the Territory of New Mexico and the solicitor general of the Territory of New Mexico shall prosecute suits on the said bond.

SEC. 27. That the territorial auditor shall keep a separate account of the school fund, with each collector of taxes, and the territorial treasurer shall keep such funds separate from all others. Any tax collector who shall fail to pay over all school money collected by him within thirty days after the tenth day of each month in which the same is collected shall be summarily removed by the governor from the office of collector. If the tax collector be also sheriff such delinquent shall also be removed from the office of sheriff and forever thereafter be disqualified from holding either of said offices, and the governor shall appoint a successor, who shall qualify according to law, and who shall hold his office during the balance of the time of the officer removed. It shall also be the duty of the collector of taxes to keep the accounts of special taxes levied by school districts in separate books provided for that purpose.

SEC. 28. That school districts shall have power and authority to borrow money for the purpose of erecting and completing school houses by issuing negotiable bonds of the district, to run any period of not less than twenty years, nor exceeding thirty years, drawing interest at a rate of not to exceed six per centum per annum, with interest payable semi-annually, or annually, at such place as the board of directors issuing the same may direct, which said indebtedness shall be binding and obligatory on the school districts for the use of which said loan shall be made; but no district shall permit a greater outstanding indebtedness than

an amount equal to four per centum of the assessed value of the property of the district.

SEC. 29. That the directors of any school district may submit to the voters of their district at the annual or any special meeting called for that purpose, the question of issuing bonds as contemplated by this act, giving the same notice of such meeting as is now required to be given for the election of directors by this act, and the amount proposed to be raised by the sale of such bonds, which question shall be voted upon by the qualified electors of the district, and if a majority of all the votes cast upon that question be in favor of the issue of such bonds, then said board shall issue bonds to the amount voted, in denominations of not less than twenty five dollars nor exceeding five hundred dollars, due not less than twenty, nor more than thirty years, after date, and redeemable at the pleasure of the district at any time after ten years, which said bonds shall be given in the name of the district issuing them and shall be signed by the president of the board of directors and approved by the county superintendent and be delivered to the county treasurer, taking his receipt therefor, and said county treasurer shall advertise for the sale of said bonds to the highest bidder in at least four issues of some weekly paper published in his county, or an adjoining county, and shall countersign said bonds when negotiated. The county treasurer shall place the proceeds of such sale of bonds to the credit of the proper district, to be paid out as provided for in the matter of special district tax. The county treasurer shall stand charged upon his official bond with all bonds that may be delivered to him, but any bond or bonds not sold may be returned to the district and the treasurer credited with the same:

*Provided*, that if such bonds are issued for the building of a school house, that the contractor constructing the same may receive in payment such bonds at their face value, or at the price offered by the highest bidder: *Provided further*, that none of

the bonds mentioned in this act shall be sold for less than 90 cents on the dollar.

SEC. 30. That a special levy, not to exceed five mills, may be levied by the district board as is provided for the general expense five mills levy of section 22, to be used as a sinking fund for the payment of outstanding bonds:

*Provided*, No levy shall be made for the creation of a sinking fund at a less period than ten years after such bonds have been issued. The sinking fund may be applied by the directors to the purchase and cancellation of outstanding bonds of the district.

SEC. 31. All property, personal and real, situated in each school district shall be subject to the general three mills levy, and also to the sinking fund bond levy, and also to the five mills special levy, for the purpose of this act, and no further, the exemption laws heretofore and now in force in this territory are hereby repealed.

SEC. 32. That no bonds of any district shall be issued or any special tax levied until the boundaries of said districts shall have been established and the property marked by monuments or by natural objects as provided by law. The boundaries of all school districts in this territory, so far as possible, shall coincide with the precinct boundaries, and said boundaries shall be established by the proper authority and the corners thereof marked by monuments or natural objects with the words district number \_\_\_\_\_ in a permanent manner marked upon them, and an outline map of the district made showing the length and breadth thereof, and the proposed location of the school house; a copy of the said map to be filed with the county superintendent.

SEC. 33. That the county superintendent, the president of the school district, and some competent person, the county surveyor should there be one appointed by the county commissioners, shall constitute the board, whose duty it shall be to establish corners, boundary lines, and draw the map contemplated in

section 32 of this act; the expense of such proceeding to be charged to the county wherein the district is situated and to be allowed by the board of county commissioners thereof and not to exceed the sum of ten dollars for each district.

SEC. 34. That in any school district where a special tax is in contemplation of being levied, or of bonds being issued, and after the boundaries of the district have been properly determined and marked for that purpose, it shall be the duty of the county assessor to visit said district and make an assessment of all taxable property, both personal and real, within said school district, as fully and completely as he is now required to make the assessment of the county, and he shall be governed by the same rules, especially including in such assessment all kinds of live stock which graze wholly within the limits of such district. The county assessor shall provide each board of district directors with a copy of such lists of taxable property, in the several districts.

SEC. 35. That the following are hereby declared to be and remain temporary funds for common school purposes:

*First.* The proceeds of all sales of intestate estates which escheat to the territory.

*Second.* All forfeitures or recoveries on bonds of county, precinct or territorial school officers.

*Third.* The proceeds of all fines collected for violation of the penal laws.

*Fourth.* The proceeds of the sales of lost goods or estrays.

*Fifth.* All moneys arising from licenses imposed upon wholesale and retail liquor dealers, distilleries, breweries, wine-presses, gambling tables or games of chance, which now pay license or may hereafter be required to pay license.

All the moneys arising from the above enumerated sources when collected, shall be paid into the county treasury to the account of the several school districts, wherein such sums are collected, officers collecting and paying in the same taking the county treasurer's receipt therefor. Should there be more than

one school district in any precinct, said amount collected shall be divided among the several school districts pro rata, according to the scholastic census of said district, as furnished to the county school superintendent for the current year.

SEC. 36. That a poll tax of one dollar shall be levied upon all able bodied male persons over the age of twenty-one years for school purposes. It shall be the duty of the county assessor to make out separate lists of all persons liable to pay a poll tax in each district and certify the same to the clerks of the several school districts, whose duty it shall be to collect the same, and said clerks shall receive ten per centum of all moneys collected from poll taxes. The district clerks are hereby empowered to bring suit in the name of the district for the collection of the same, if not paid within sixty days after said lists have been received by the treasurer.

*Provided*, It shall be illegal for any person to vote at any election who has not paid his poll tax for the current year, and said payment must be made in case of a general election one day previous to such election day.

SEC. 37. That it shall be the duty of the district clerks to make at least one copy of the poll tax lists as soon as received from the county assessor and post them up in some conspicuous place in their districts for the information of the people, and on or before the first Monday of April the district clerks shall report to the county superintendent in writing the amount of poll tax collected, from whom collected, the names of persons still delinquent, and the reason for the delinquency.

SEC. 38. That on and after this act goes into effect it shall be the duty of the county assessor to make separate rolls of the poll tax list for the several school districts, and the said poll tax shall be collected as provided by this act.

SEC. 39. That it shall be lawful for any district to take and hold in its corporate name, under the provisions of this act, so much real estate as may be necessary for the location and construction of a school house and convenient schools.

*Provided*, That the real estate so taken otherwise than by consent of the owner shall not exceed one acre. The site so taken must be situated on some public highway or thoroughfare.

SEC. 40. That if the owner of any such real estate refuse or neglect to grant the necessary site on his premises, then and in that case the directors may acquire title to so much of said land as is necessary for school purposes in the manner now provided by law for the condemnation of land for railroads or other public purposes, and such land so taken shall be deemed to be taken for public use.

SEC. 41. That it shall be lawful for communities where lying contiguous in the same county, though in different precincts, to form school districts according to the provisions of this act.

*Provided*, That in such cases it shall be the duty of five of said petitioners to certify under oath the number of heads of families and children of school age belonging to the several parts or precincts sought to be joined in the new district.

SEC. 42. That the school directors of the various districts in this territory are hereby empowered and required to compel parents, guardians, or other persons having the control, care or direction of children, when such children do not attend some private school, to send such children under their control to the public school for at least three months in each year, except when such children shall be under eight or above sixteen years of age, or of such physical disability as to unfit them for the labor required, which disability shall be certified to by some regular practising physician. Any parent, guardian, or other person having the control of children who shall fail or refuse to send such children to school as required by this act, shall be punished upon conviction thereof by a fine of not less than one dollar nor more than twenty-five dollars, or by imprisonment for not more than ten days in any county jail.

*Provided*, that such school directors shall have served written notice upon said parents, guardians or other persons having the



care and control of said children that such children are not in attendance at the public school or any other school as required by law: *Provided, further,* That if such parent or guardian is not able by reason of poverty to buy books for any such child, it shall be the duty of the school board of the proper district, upon the facts being shown to their satisfaction, to furnish the necessary books and pay for the same out of the school fund of such district by warrants drawn as in other cases; or that there is no school taught within two miles of the place of residence of such child by the nearest established road.

All fines so collected from the violation of this section shall be paid into the county treasury and placed to the credit of the school district in which the offense occurred.

SEC. 43. That pupils who are actual residents of a district shall be permitted to attend school in the same, regardless of the time when they acquire such residence, whether before or after the enumeration.

SEC. 44. That the school month shall consist of four weeks of five days each, and a school day shall consist of six hours.

SEC. 45. That all laws and parts of laws providing for the levy and collection of taxes for school purposes and all laws and parts of laws relating to public schools in the territory of New Mexico for the expenditure of money for the public schools, are hereby repealed, and this act shall take effect and be in force from and after its passage.

Approved February 12, 1891.

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## CHAPTER LXIV.

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### AN ACT IN RELATION TO SCHOOL BOOKS.

*Be it enacted by the Legislative Assembly of the Territory of New Mexico:*

SECTION 1. The board of education of the territory of New Mexico shall have and is hereby vested with full power to adopt a system of school books for the use of the public schools of this

territory, and only the school books so adopted by the said board shall be used in any and all of the public schools in this territory. The board of education shall have power to contract with the publisher or publishers of text books adopted for use in the public schools in New Mexico in the name of the territory and through the superintendent of public instruction for the purchase and delivery of said books under such regulations as the board may adopt.

SEC. 2. The books purchased in the name of the territory shall be sold to the several counties for cash only, at cost and freight added and additional five per centum of amount of cost and freight, to cover necessary expenses; on the tenth of each month accounts of books purchased and sold shall be settled by the superintendent of public instruction; the text books shall be supplied by the publisher or publishers in quantities on the order of the superintendent of public education of the territory and on the first day of March and of September of each year a full settlement shall be had between the territory and the contractors and a full report thereof shall be submitted to the board of education of all matters connected with the purchase of text books by the superintendent of education.

SEC. 3. Text books once adopted shall not be changed for four years and the first contract for same shall be entered into between the publishers and the territory on the first day of September, 1891, or as soon thereafter as possible.

SEC. 4. The board of education of the territory of New Mexico is hereby vested with exclusive power in the matter of prescribing the text books necessary and to be used in the public schools of this territory, and any school teacher, school director or any county school superintendent violating the regulations and rules of the board of education shall be deemed guilty of a misdemeanor and shall be fined for each and every offence, and upon conviction in a court of competent jurisdiction, in a sum not less than ten dollars nor more than one hundred dollars for each and every offense.

SEC. 5. This act shall take effect and be in force from and after its passage, and all acts and parts of acts in conflict therewith are hereby repealed.

Approved Feb. 26, 1891.

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## CHAPTER LXXVII.

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AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO ESTABLISH COMMON SCHOOLS IN THE TERRITORY OF NEW MEXICO AND CREATING THE OFFICE OF SUPERINTENDENT OF PUBLIC INSTRUCTION," APPROVED FEB. 11TH, 1891.

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*Be it enacted by the Legislative Assembly of the Territory of New Mexico:*

SECTION 1. That the school fund derived from the general levy of three mills on the dollar of taxable property shall be paid directly by the several collectors to the treasurers of their respective counties to the credit of the county school funds, and shall be apportioned as now provided by law, together with all the county school fund by the county superintendent of schools, on the first Mondays in January, April, July and October.

SEC. 2. The actual necessary expenses of the members of the board of education incurred in attending the meetings thereof shall be audited by the auditor of the territory, and paid out of any school funds in the territorial treasury.

SEC. 3. County superintendents hereafter elected shall receive pay for their services and expenses as follows: In counties having fifteen school districts or less, two hundred and fifty dollars per annum; in counties having more than fifteen school districts but not more than twenty-five, five hundred dollars per annum; in counties having more than twenty-five school districts, but not more than thirty-five, seven hundred and fifty dollars per annum; in counties having more than thirty five school districts and not more than forty-five, one thousand dol-

lars per annum; in counties having more than forty-five school districts and not more than fifty-five, twelve hundred and fifty dollars per annum; in counties having more than fifty-five school districts and not more than sixty-five, fifteen hundred dollars per annum; in counties having more than sixty-five school districts, seventeen hundred and fifty dollars per annum; to be paid out of the school funds of the respective counties, and payable quarterly upon the order of the county commissioners upon the county treasurer.

*Provided*, That such compensation shall be made according to the number of school districts as they exist at the commencement of the terms of office of the several superintendents.

SEC. 4. That it shall be illegal for any person to vote or attempt to vote at any election who has not paid his poll tax for the current year, and said payment must be made in case of a general election, at least sixty days previous to such election day.

SEC. 5. That the following classes of property shall be exempt from taxation for school purposes:

Property of the United States, of this territory, of counties, cities, towns and other municipal corporations when devoted entirely to public use, and not held for pecuniary profits, all public libraries, the grounds, buildings, books, papers and apparatus of literary, scientific, benevolent, agricultural and religious institutions, and societies devoted exclusively to the appropriate object of those institutions, and not leased or otherwise used with a view to pecuniary profit, and cemeteries not held for pecuniary profit.

*Provided*, That mines and mining claims shall pay a tax upon the net product and upon the surface improvement only.

SEC. 6. All cities and towns now organized by virtue of the authority of former acts, and all cities and towns hereafter organized under any law of this territory shall be governed by the provisions of this act.

SEC. 7. In each city or town governed by this act there shall

be established and maintained a system of free common schools, which shall be kept open no less than three nor more than ten months in any one year, and shall be free to all children residing in such city or town between the ages of five and twenty years. But the board of education may when school room accommodations are insufficient exclude for the time being children between the ages of five and seven years.

SEC. 8. Territory outside the city limits, but adjacent thereto, may be attached to such city or town for school purposes upon application to the board of education of such city or town by a majority of the electors of such adjacent territory, and upon such application being made to the board of education, they shall if they deem it proper and to the best interests of the school of said city or town and the territory seeking to be attached, issue an order attaching such territory to such city or town for school purposes, and to enter the same upon their journal, and such territory shall from the date of such order be and compose a part of such city or town for school purposes only, and the taxable property of such adjacent territory shall be subject to taxation and shall bear its full proportion of all expenses incurred in the erection of school buildings and in maintaining the schools of such city or town.

Whenever the territory so attached shall have attained a population equal to that of any ward of such city or town, or whenever the taxable property of such attached territory shall equal that of any one ward of such city or town, such attached territory shall be entitled to elect two members of the board of education, who shall be elected at the same time that other members of the board are elected by the qualified electors of such territory, at an election to be held at such place as the board of education may designate.

SEC. 9. The public schools of each city organized in pursuance of this act shall be a body corporate and shall possess the usual powers of a corporation for public purposes by the name and style of the "board of education of the city (or town) of

....., of the Territory of New Mexico," and in that name may sue or be sued and be capable of contracting and being contracted with, of holding and conveying such real and personal estate as it may come into possession of, by will or otherwise, or as is authorized to be purchased by the provisions of this act.

SEC. 10. Any city or town is hereby authorized and required upon the request of the board of education of such city or town, to convey to said board of education all property within the limits of any such city or town, heretofore purchased by any such city or town for school purposes, and now held and used for such purpose, the title to which is vested in any such city or town.

SEC. 11. All conveyances for the property mentioned in the preceding section, shall be signed by the mayor, and attested by the clerk of said city or town, and shall have the seal of the city or town affixed thereto and be acknowledged by the mayor of such city or town in the same manner as other conveyances of real estate.

SEC. 12. At each annual city or town election there shall be a board of education, consisting of two members from each ward, elected by the qualified voters thereof, one of whom shall be elected annually, and shall hold his office for a term of two years, and until his successor is elected and qualified.

*Provided*, that no member of the board of education shall be a member of the council or town trustees, nor shall any member of the council or town trustees be a member of the board of education.

SEC. 13. The board of education shall have power to fill any vacancy which may occur in their body.

*Provided*, that any vacancy occurring more than ten days previous to the annual election and having an unexpired term of one year shall be filled at the first annual election thereafter; and the ballots and returns of election shall be designated as follows: "To fill unexpired term."

SEC. 14. The board of education shall have power to elect their own officers, except the treasurer; to make their own rules and regulations, subject to the provisions of this act; to organize and maintain a system of graded schools; to establish a high school whenever in their opinion the educational interests of the city demand the same, and to exercise the sole control over the schools and school property of the city or town.

SEC. 15. The board of education, at its regular meeting in May of each year, shall organize by the election of a president and vice president from among its own members, each of whom shall serve for the term of one year, or until their successors are elected and qualified; they shall also elect a clerk, who shall hold his office during the pleasure of the board, and who shall receive such compensation for his services as the board may allow.

SEC. 16. The treasurer of the city or town shall be ex-officio the treasurer of the board of education and shall give bond to the board of education as the board may require, said bond to be approved by the board of education and filed with its clerk. It shall be the duty of the treasurer to deposit daily all money belonging to the board of education in some responsible bank, to be designated by the board of education, in the name of such treasurer as such officer, which bank shall pay interest on monthly average balances as may be agreed upon by such bank and the board of education, and before making such deposits, the board of education shall take from such bank a good and sufficient bond in a sum to be designated by the board of education, conditioned that such deposits shall be paid on the check or draft of said treasurer. The treasurer shall attend all of the meetings of the board when required to do so; shall prepare and submit in writing a monthly report of the finances of said board, and shall pay school moneys only upon a warrant signed by the president, or, in his absence, by the vice president, and countersigned by the clerk. The treasurer shall receive from the board

of education, fifty dollars per annum for his services as treasurer, and no more.

SEC. 17. No member of the board of education shall receive any pay or emolument for his services.

SEC. 18. It shall be the duty of the president to preside at all meetings of the board of education, to appoint all committees whose appointment is not otherwise provided for, and to sign all warrants ordered by the board of education to be drawn upon the treasurer for school moneys.

SEC. 19. It shall be the duty of the vice president to perform all the duties of the president in case of his absence or disability.

SEC. 20. It shall be the duty of the clerk to be present at all meetings of the board; to keep an accurate journal of its proceedings; to take charge of its books and documents; to countersign all warrants for school moneys drawn upon the treasurer by order of the board of education, and perform such other duties as the board of education or its committees may require.

SEC. 21. Before entering upon the discharge of his duties, the clerk of the board of education shall give bond in the sum of one thousand dollars, with good and sufficient sureties, to be approved by the board, conditioned for the faithful performance of the duties of his office.

SEC. 22. The board of education shall, on or before the first day of August of each year, levy a tax for the support of the schools of the city or town for the fiscal year next ensuing, not exceeding in any one year five mills on the dollar, an all personal, mixed and real property within the district, which is taxable according to the laws of the territory of New Mexico for school purposes, which levy shall be approved by the city council or town trustees; and when so approved the clerk of the board shall certify to the county clerk, who is hereby authorized and required to place the same on the tax roll of said county, to be collected by the collector of the county as are other taxes, and paid over by him to the treasurer of the board of education, of whom he shall take a receipt in duplicate, one of which he



shall file in his office, and the other he shall forthwith transmit to the clerk of the board of education.

This section shall not be construed to change, alter, modify or amend section 1 of this act or any part of the act of which it is an amendment, with reference to the amount to be raised by taxation for school purposes, but the provisions of this section with reference to taxation for schools, under this section, and said law shall be held and taken to be in addition to the provisions of the act above referred to in this section.

SEC. 23. The taxable property of the whole city or town, including the territory attached for school purposes, shall be subject to taxation. All taxes collected for the benefit of the schools shall be paid in money, and shall be placed in the hands of the treasurer, subject to the order of the board of education.

SEC. 24. The regular meetings of the board of education shall be upon the first Monday of each month, but special meetings may be held, from time to time, as circumstances may demand.

SEC. 25. The board of education, at the close of each school year, or as soon thereafter as practicable, shall make an annual report of the progress, prosperity and condition, financial as well as educational, of all the schools under their charge; and said report, or such of it as the board of education shall consider of advantage to the public, shall be printed, either in a public newspaper or in pamphlet form, and a copy furnished the county and the territorial superintendent.

SEC. 26. No expenditure involving an amount greater than two hundred dollars shall be made except in accordance with the provisions of a written contract, and no contract involving an expenditure of more than five hundred dollars, for the purpose of erecting any public buildings or making any improvements, shall be made except upon sealed proposals, and to the lowest responsible bidder.

SEC. 27. No sectarian doctrine shall be taught or inculcated in any of the public schools of the city or town.

SEC. 28. All property held by the board of education for the use of public schools shall be exempt from taxation, and shall not be taken in any manner for any debt due from the city.

SEC. 29. Any city or incorporated town in this territory, which shall by the action of its common council, trustees or school directors have purchased any ground or building or buildings, or may hereafter purchase any ground and building or buildings, or has commenced or may hereafter commence the erection of any building or buildings for school purposes, or which shall have by its school directors, common council or trustees, contracted any debts for the erection of such building or buildings, or the purchase of such ground and building or buildings, or such school directors, trustees or common council shall not have the necessary means with which to complete such building or buildings, or to pay for the purchase of such ground and building or buildings, or pay such debt, may on filing by the school directors, trustees or common council of said city or town, of a report under oath, with the board of education of such city or town, showing the estimated or actual cost of any such ground and building or buildings, or the amount required to complete such building or buildings, or purchase such ground and building or buildings, or the amount of such debt, it shall be lawful for the board of education to order an election for the issuing of bonds of said school district in said city or town, to an amount to liquidate such proposed indebtedness, and the said board of education are hereby authorized and empowered to issue such bonds in conformity with the requirements, and in like manner that school bonds are issued. And said board of education are authorized and empowered to issue bonds to raise funds for the purchase of school site or sites, or to erect a suitable building or buildings thereon, or to fund any bonded indebtedness for school purposes of such city or town.

*Provided*, that no bonds shall be issued until the question shall be submitted to the people, and a majority of the qualified electors who shall vote on the question at an election called

for that purpose, shall have declared by their votes in favor of issuing such bonds. The rate of interest on such bonds shall not exceed six per cent per annum, payable annually or semi-annually, at such place as may be mentioned upon the face of said bonds, which bonds shall be payable in not less than twenty nor more than thirty years from their date, and the board of education is hereby authorized and empowered to sell such bonds at not less than par.

SEC. 30. It shall be the duty of the mayor of each city or town governed by this act, upon the request of the board of education, forthwith to call an election to be conducted in all respects as are the elections for city or town officers in the same cities or towns, except that the returns shall be made to the board of education for the purpose of taking the sense of such district upon the question of issuing such bonds, naming in the proclamation of such election the amount of bonds asked for and the purpose for which they are to be issued.

SEC. 31. The bonds, the issuance of which is provided for in the foregoing section, shall be signed by the president, attested by the clerk and countersigned by the treasurer of the board of education; and said bonds shall specify the rate of interest and the time when principal and interest shall be paid, and each bond so issued shall be for a sum not less than fifty dollars.

SEC. 32. The board of education at the time of its annual levy of taxes for the support of schools, as hereinbefore provided, shall also levy a sufficient amount to pay the interest as the same accrues on all bonds issued under the provisions of this act, and also to create a sinking fund for the redemption of said bonds, which it shall levy and collect, in addition to the rate per cent authorized by the provisions aforesaid for school purposes; and said amount of funds, when paid into the treasury, shall be and remain a specific fund for said purpose only and shall not be appropriated in any other way except as hereinafter provided.

*Provided*, There shall be no levy for sinking fund until ten

years after the issue of such bonds, if they be for twenty years; and twenty years after the issue if they be for thirty years, and the levy in any one year shall not exceed five mills on the dollar for such sinking fund, and the total levy in any one year shall not exceed ten mills on the dollar for all purposes: *Provided further*, That the levy for interest on such bonds as may be issued by such city or town shall not exceed in any one year an amount required to pay the annual interest.

SEC. 33. Whenever the interest coupons of the bonds hereinbefore authorized shall become due, they shall be promptly paid, on presentation by the treasurer, out of any money in his hands collected for that purpose, and he shall endorse upon the face of such coupons in red ink the word "paid," and the date of payment, and sign the initials of his name.

SEC. 34. The school fund and property of such city or town and territory attached for school purposes is hereby pledged to the payment of the interest and principal of the bonds mentioned in this act, as the same may become due.

SEC. 35. It shall be the duty of the clerk of the board of education to register in a book provided for that purpose the bonds issued under this act, and all warrants issued by the board, which said register shall show the number, date and amount of said bonds, and to whom made payable.

SEC. 36. Each member of the board of education and officer provided for in this act shall take and subscribe an oath or affirmation to support the constitution of the United States and the laws of New Mexico, and faithfully perform the duties of his office. The oath and bond of the clerk shall be filed with the treasurer; and all other oaths and bonds shall be filed with the clerk.

SEC. 37. All acts and parts of acts in conflict herewith are hereby repealed, and this act shall take effect and be in force from and after its passage.

Approved Feb. 26, 1891.

## U. S. STATUTES.

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Forty-Ninth Congress; First Session.

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### CHAPTER CCOLXII.

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AN ACT TO PROVIDE FOR THE STUDY OF THE NATURE OF ALCOHOLIC DRINKS AND NARCOTICS, AND OF THEIR EFFECTS UPON THE HUMAN SYSTEM, IN CONNECTION WITH THE SEVERAL DIVISIONS OF THE SUBJECT OF PHYSIOLOGY AND HYGIENE, BY THE PUPILS IN THE PUBLIC SCHOOLS OF THE TERRITORIES AND OF THE DISTRICT OF COLUMBIA, AND IN THE MILITARY AND NAVAL ACADEMIES, AND INDIAN AND COLORED SCHOOLS IN THE TERRITORIES OF THE UNITED STATES.

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*Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled:*

SECTION 1. That the nature of alcoholic drinks and narcotics, and special instruction as to their effects upon the human system, in connection with the several divisions of the subject of physiology and hygiene, shall be included in the branches of study taught in the common or public schools, and in the military and naval schools, and shall be studied and taught as thoroughly and in the same manner as other like required branches are in said schools, by the use of text books in the hands of pupils where other branches are thus studied in said schools, and by all pupils in all said schools throughout the territories, in the military and naval academies of the United States, and in the District of Columbia, and in all Indian and colored schools in the territories of the United States.

SEC. 2. That it shall be the duty of the proper officers in control of any school described in the foregoing section to enforce the provisions of this act; and any such officer, school director, committee, superintendent, or teacher who shall refuse or neglect to comply with the requirements of this act, or shall neglect or fail to make proper provisions for the instruction required and in the manner specified by the first section of this act, for all pupils in each and every school under his jurisdiction, shall be removed from office, and the vacancy filled as in other cases.

SEC. 3. That no certificate shall be granted to any person to teach in the public schools of the District of Columbia or territories, after the first day of January, Anno Domini eighteen hundred and eighty-eight, who has not passed a satisfactory examination in physiology and hygiene, with special reference to the nature and the effects of alcoholic drinks and other narcotics upon the human system.

Approved May 20, 1886.

































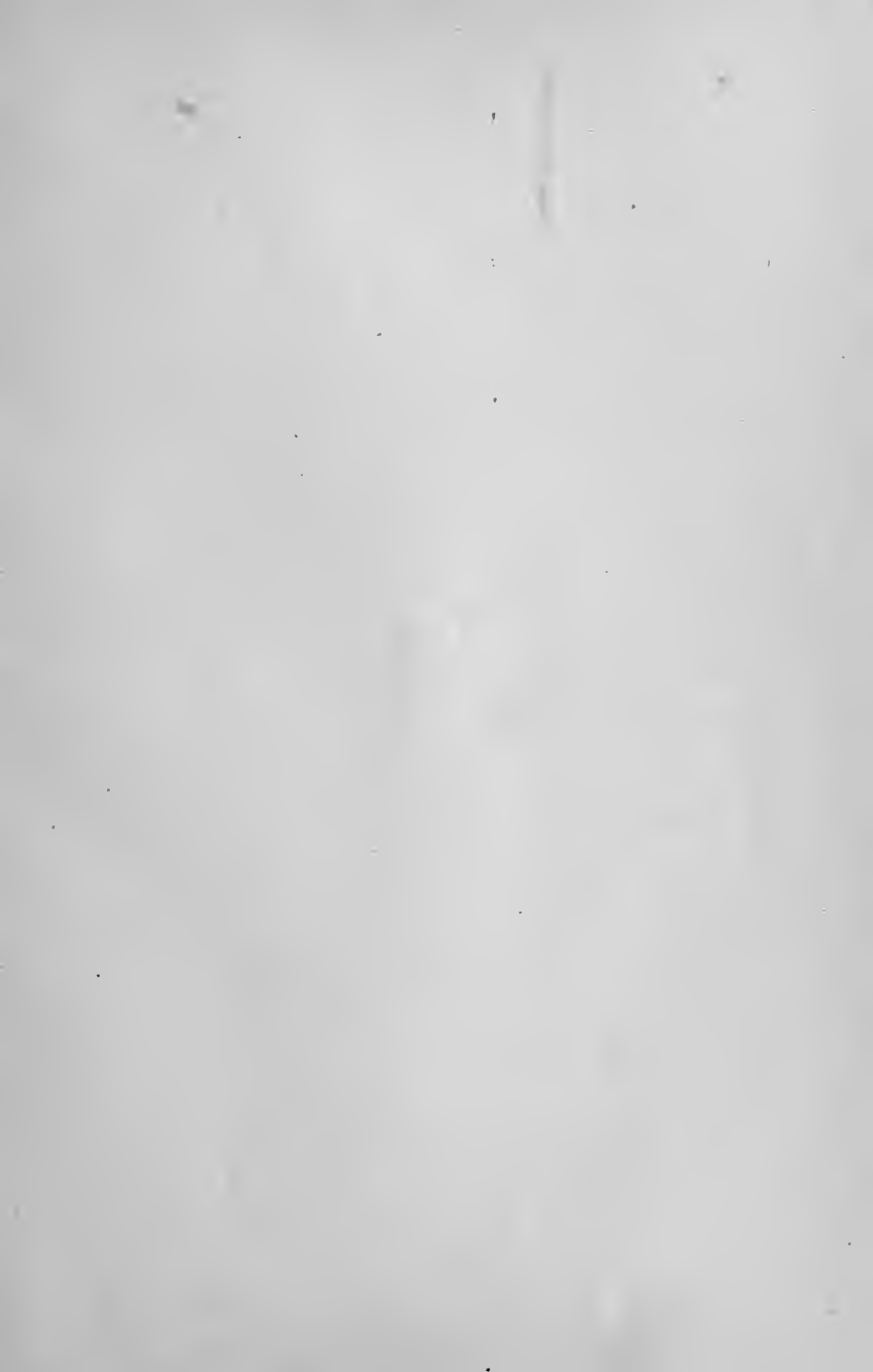
















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